THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.3341 of 1999

Dated: 05.12.2007

Between:

The Depot Manager, APSRTC,
Gajuwaka depot,
Visakhapatnam District

.. Petitioner.

And

Industrial Tribunal-cum-Labour Court,
Visakhapatnam rep. by its Presiding Officer
and another.

.. Respondents.

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ORDER:

This writ petition is filed being aggrieved by an award, dated 16.04.1998, made in ID.No.5 of 1995 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Petitioner is the management and 2nd respondent is the workman. It appears, the 2nd respondent, who was working as Conductor with the A.P.State Road Transport Corporation (for short 'A.P.S.R.T.C.'), was removed from service, after conducting a detailed enquiry into the misconduct alleged against him, and therefore, he raised a dispute under Section 2-A (2) of the Industrial Disputes Act (for short 'the Act') before 1st respondent-Industrial Tribunal-cum-Labour Court, Visakhapatnam assailing the order removing him from service. It was his case before the Labour Court that on 05.12.1993 at about 8.00 a.m., when he was conducting a bus on the route 48, a check was exercised and certain cash and ticket irregularities were found and he was issued with a charge sheet enumerating the following charges :-

> "(1) On 5.12.93 you have failed to issue tickets to 85 chargeable children (1/2 tickets) intentionally out of the batch of 153 passengers who boarded your bus at Sriharipuram and bound for Zoo park found alighting at Zoo park without tickets that you had collected money and issued tickets to 68

passengers in the same batch while conducting the bus bearing N.AEZ 2595 on special trip, which constitutes misconduct under Reg.28(x) of APSRTC Employees' (conduct) Regulations, 1963.

(2) For having closed all denominations in the SR except Rs.2.75 denominations upto stage No.15 while conducting the bus bearing No.AEZ 2595 on route Sriharipuram Zoo Park (special Trip) on 5.12.93 which constitutes misconduct under Reg.28 (xxxi) of APSRTC Employees' (conduct) Regulations, 1963."

and after conducting farce of an enquiry, he was removed from service. It was also the contention of the workman that the enquiry was not properly conducted and absolutely there was no evidence to hold him guilty of the charges levelled. Further enquiry officer has committed an error in coming to the conclusion that the charges are proved, further disciplinary authority has erroneously accepted the said report and imposed the punishment of removal from service which is disproportionate to that of the misconduct proved.

3. The petitioner-management filed a detailed counter denying the allegations made by the workman. It was stated that after conducting a detailed enquiry, the workman was removed from service. There is an amount of evidence to hold the workman guilty of the charges. The order of removal passed by the Disciplinary authority is just and proper.

4. Before the Labour Court, though no oral evidence was adduced on either side and no documents were marked on behalf of the workman, Exs.M1 to M17 were marked on behalf of the management.

5. After detailed consideration of the entire material placed before

it, the Labour Court came to the conclusion that the workman was innocent and he never intended to defraud the revenues of A.P.S.R.T.C. In fact, the bus was jam-packed at the time of check and there were 153 passengers including 68 adults, and insofar as 68 adults are concerned, the tickets were already issued to them, and the conductor was in the process of issuing tickets to other 85 chargeable children. The workman did not deny these facts. Even the statements of the passengers and also the witness examined by the management show that the omission to issue tickets was not due to the fault of the conductor. Under these circumstances, the Labour Court found that the workman was absolutely free from the guilt, and hence, directed the management to reinstate the workman into service with backwages and continuity of service.

6. On perusal of the impugned award, I am not inclined to interfere with the findings recorded by the Labour Court. However, it may be noticed that the Labour Court itself has found that no doubt the workman should have been more diligent and he should have issued tickets first and then should have started the bus. Issuing the tickets first and then starting the bus was made as a rule for the reason that the revenues of A.P.S.R.T.C may not be defrauded. In this case, admittedly, the workman started the bus, without issuing the tickets to all the passengers at the starting point itself, and he could not issue the tickets to all the passengers before the bus reached the destination point. Therefore, it cannot be said that there was no misconduct on the part of the workman. May be the misconduct which can be retrieved from the facts is trivial in its nature, but that does not mean that the workman can escape without any punishment.

7. Under the above circumstances, I am of the opinion that the

workman cannot go scot-free. Therefore, I deem it appropriate that the award passed by the Labour Court is liable to be modified by denying 25% of backwages, and the same is, accordingly, modified directing the management to reinstate the workman into service with continuity of service and 75% of backwages only.

8. With the above modification, the writ petition is disposed of. No order as to costs.

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(C.V.RAMULU,J)

Dt.05.12.2007

v v